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AN ACT

RELATING TO HEALTH FACILITIES; AUTHORIZING THE STATE TO ACQUIRE A FACILITY TO REPLACE FORT BAYARD MEDICAL CENTER; AUTHORIZING CERTAIN AGREEMENTS TO EFFECTUATE THE ACQUISITION; RATIFYING AND APPROVING A LEASE-PURCHASE AGREEMENT; PROVIDING EXEMPTIONS FROM THE PROCUREMENT CODE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-7-6.5 NMSA 1978 (being Laws 2005, Chapter 317, Section 1) is amended to read:

"9-7-6.5. AGREEMENTS FOR A REPLACEMENT FACILITY FOR FORT BAYARD MEDICAL CENTER.--

A. Notwithstanding any other provision of state law or rule, the secretary may do one or more of the following:

(1) enter into an agreement, including an agreement with an independent contractor, to operate Fort Bayard medical center or a replacement for Fort Bayard medical center in Grant county;

(2) acquire by purchase, lease, construction, lease-purchase or other financing arrangement a facility to be located in Grant county to replace Fort Bayard medical center, provided that, if the acquisition results in

1 the transfer of the title to the facility, the title to the  
2 facility shall be in the name of the property control  
3 division of the general services department; or

4 (3) enter into an agreement with Grant  
5 county under which the department may construct or cause to  
6 be constructed the facility that will replace the Fort Bayard  
7 medical center.

8 B. The provisions of the Procurement Code shall  
9 not apply to the procurement, by either the department or  
10 Grant county or both, of tangible personal property, services  
11 or construction deemed necessary by the department to  
12 effectuate the provisions of this section. However,  
13 agreements related to the acquisition of the facility to  
14 replace Fort Bayard medical center shall be subject to the  
15 provisions of state law regulating the acquisition and  
16 disposal of real property by governmental entities.

17 C. An operating agreement entered into pursuant to  
18 this section shall include provisions for the continued  
19 employment of all current and future Fort Bayard medical  
20 center employees, excluding management employees of the  
21 contractor, as state employees, entitled and subject to all  
22 the rights and responsibilities of state employees. Under  
23 the terms of the agreement and the overall direction of the  
24 department, the independent contractor shall provide  
25 management and supervision to state employees at Fort Bayard

1 medical center, including the provision of work assignments,  
2 evaluations and promotional and disciplinary actions.

3 D. Pursuant to Section 15-3-35 NMSA 1978, the  
4 legislature ratifies and approves a lease-purchase agreement,  
5 in a form approved by the state board of finance, between the  
6 department, as lessee-purchaser and Grant county, as  
7 lessor-seller, for the facility that will replace the Fort  
8 Bayard medical center, provided that, upon transfer of title,  
9 title to the facility shall be in the name of the property  
10 control division of the general services department."

11 Section 2. Section 13-1-98 NMSA 1978 (being Laws 1984,  
12 Chapter 65, Section 71, as amended by Laws 2007, Chapter 55,  
13 Section 1 and by Laws 2007, Chapter 345, Section 1) is  
14 amended to read:

15 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
16 provisions of the Procurement Code shall not apply to:

17 A. procurement of items of tangible personal  
18 property or services by a state agency or a local public body  
19 from a state agency, a local public body or external  
20 procurement unit except as otherwise provided in Sections  
21 13-1-135 through 13-1-137 NMSA 1978;

22 B. procurement of tangible personal property or  
23 services for the governor's mansion and grounds;

24 C. printing and duplicating contracts involving  
25 materials that are required to be filed in connection with

1 proceedings before administrative agencies or state or  
2 federal courts;

3 D. purchases of publicly provided or publicly  
4 regulated gas, electricity, water, sewer and refuse  
5 collection services;

6 E. purchases of books and periodicals from the  
7 publishers or copyright holders thereof;

8 F. travel or shipping by common carrier or by  
9 private conveyance or to meals and lodging;

10 G. purchase of livestock at auction rings or to  
11 the procurement of animals to be used for research and  
12 experimentation or exhibit;

13 H. contracts with businesses for public school  
14 transportation services;

15 I. procurement of tangible personal property or  
16 services, as defined by Sections 13-1-87 and 13-1-93 NMSA  
17 1978, by the corrections industries division of the  
18 corrections department pursuant to rules adopted by the  
19 corrections industries commission, which shall be reviewed by  
20 the purchasing division of the general services department  
21 prior to adoption;

22 J. minor purchases not exceeding five thousand  
23 dollars (\$5,000) consisting of magazine subscriptions,  
24 conference registration fees and other similar purchases  
25 where prepayments are required;

1           K. municipalities having adopted home rule  
2 charters and having enacted their own purchasing ordinances;

3           L. the issuance, sale and delivery of public  
4 securities pursuant to the applicable authorizing statute,  
5 with the exception of bond attorneys and general financial  
6 consultants;

7           M. contracts entered into by a local public body  
8 with a private independent contractor for the operation, or  
9 provision and operation, of a jail pursuant to Sections  
10 33-3-26 and 33-3-27 NMSA 1978;

11           N. contracts for maintenance of grounds and  
12 facilities at highway rest stops and other employment  
13 opportunities, excluding those intended for the direct care  
14 and support of persons with handicaps, entered into by state  
15 agencies with private, nonprofit, independent contractors who  
16 provide services to persons with handicaps;

17           O. contracts and expenditures for services or  
18 items of tangible personal property to be paid or compensated  
19 by money or other property transferred to New Mexico law  
20 enforcement agencies by the United States department of  
21 justice drug enforcement administration;

22           P. contracts for retirement and other benefits  
23 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

24           Q. contracts with professional entertainers;

25           R. contracts and expenditures for litigation

1 expenses in connection with proceedings before administrative  
2 agencies or state or federal courts, including experts,  
3 mediators, court reporters, process servers and witness fees,  
4 but not including attorney contracts;

5 S. contracts for service relating to the design,  
6 engineering, financing, construction and acquisition of  
7 public improvements undertaken in improvement districts  
8 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and  
9 in county improvement districts pursuant to Subsection L of  
10 Section 4-55A-12.1 NMSA 1978;

11 T. works of art for museums or for display in  
12 public buildings or places;

13 U. contracts entered into by a local public body  
14 with a person, firm, organization, corporation or association  
15 or a state educational institution named in Article 12,  
16 Section 11 of the constitution of New Mexico for the  
17 operation and maintenance of a hospital pursuant to  
18 Chapter 3, Article 44 NMSA 1978, lease or operation of a  
19 county hospital pursuant to the Hospital Funding Act or  
20 operation and maintenance of a hospital pursuant to the  
21 Special Hospital District Act;

22 V. purchases of advertising in all media,  
23 including radio, television, print and electronic;

24 W. purchases of promotional goods intended for  
25 resale by the tourism department;

1 X. procurement of printing services for materials  
2 produced and intended for resale by the cultural affairs  
3 department;

4 Y. procurement by or through the public education  
5 department from the federal department of education relating  
6 to parent training and information centers designed to  
7 increase parent participation, projects and initiatives  
8 designed to improve outcomes for students with disabilities  
9 and other projects and initiatives relating to the  
10 administration of improvement strategy programs pursuant to  
11 the federal Individuals with Disabilities Education Act;  
12 provided that the exemption applies only to procurement of  
13 services not to exceed two hundred thousand dollars  
14 (\$200,000);

15 Z. procurement of services from community  
16 rehabilitation programs or qualified individuals pursuant to  
17 the State Use Act;

18 AA. purchases of products or services for eligible  
19 persons with disabilities pursuant to the federal  
20 Rehabilitation Act of 1973;

21 BB. procurement, by either the department of  
22 health or Grant county or both, of tangible personal  
23 property, services or construction that are exempt from the  
24 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

25 CC. contracts for investment advisory services,

1 investment management services or other investment-related  
2 services entered into by the educational retirement board,  
3 the state investment officer or the retirement board created  
4 pursuant to the Public Employees Retirement Act; and

5 DD. the purchase for resale by the state fair  
6 commission of feed and other items necessary for the upkeep  
7 of livestock."

8 Section 3. EMERGENCY.--It is necessary for the public  
9 peace, health and safety that this act take effect  
10 immediately. \_\_\_\_\_

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